

REMARKS

Entry of this Amendment and reconsideration are respectfully requested in light of the remarks made herein.

Claims 1-20 are pending and claims 1-4, 8-12 and 16-18 stand rejected. Claims 5-7, 13-15, 19 and 20 are objected as being dependent upon a rejected base claim but would be allowable if re-written in independent form.

Claim 18 has been amended to correct a typographical error in the claim number from which it depends. No new matter has been added.

Claims 1-4, 8-12 and 16-20 are rejected under 35 USC 103(a) as being unpatentable over Vince (USP No. 6,765,966) in view of Gonzales (USP No. 5,289,577). It is the examiner's position that Vince discloses splitting a multimedia digital bitstream but does not disclose multiple processors. However, Gonzales does disclose multiple processors and it would have been obvious to use a plurality of processors motivated by Gonzales' teachings to speed the transcoding process of Vince.

Applicant respectfully disagrees with, and explicitly traverses the examiner's reasons for rejecting the claims.

Vince discloses a method and apparatus for detecting a high definition signal and re-encoding the high definition (HD) signal to create a standard definition (SD) television signal and then combining the original signal and the re-encoded standard definition signal into a HD/SD multiplexed signal.

Vince further discloses that multiple independent HD services 101, 102, 103 may be re-encoded into multiplexed HD signals 101, 102, 103 and SD signals 104, 105, 106. (See Figure 2 and col. 3). The encoding of multiple independent signals is discussed in line 64 - col. 4, line 24, which state in part, "the HD signal contains high definition televisions services 101,102 and 103 ...[and] transcoder 10 re-encodes the in bound HD signal ... to produce HD services 101, 102, and 103 as well as SD services 104, 105, and 106"). Hence, Vince teaches the re-encoding of each signal or service contained in the input signal.

However, while Vince discloses splitting an HD signal, re-encoding and creating a multiplexed HD/SD signal, Vince fails to disclose "processing a **portion** of said multimedia digital bitstream, wherein ... said plurality of media processors [are] capable of splitting **said portion** of said multimedia digital bitstream into a primary bitstream and a secondary bitstream," as is recited in the claims. Rather, Vince merely teaches that the HD signal may be re-encoded into an SD signal and does not provide any teaching regarding how the re-encoding occurs.

Applicant would further note that Vince fails to consider the method or the speed of the re-encoding of the HD signal into an SD signal as real-time operation is not discussed. Rather Vince discusses the advantages of the invention with regard to a cable television system headend to support legacy SD equipment and HD equipment. (see col. 1, lines 40-41). In this case, rather than real-time processing, the multiplex HD/SD signal may be created and stored prior to transmission. Hence, the re-encoding process does not require significant speed.

Gonzales discloses a sequential process-pipeline system having a first processing stage couple to a CODEC through a plurality of buffers. Gonzales further teaches that each stage includes buffers that "function to logically smooth out 'density fluctuations' in the data flow ... [and] also serve ... to separate a data-dependent process from a data-independent process." (see col. 6, lines 3-7). Gonzales further teaches that the size of the buffers may be determined in the short term. Thus, Gonzales teaches a sequential processing system that adapts the buffer size between processors to accommodate the data flow. Gonzales fails to teach or suggest re-encoding HD signals or "processing a **portion** of said multimedia digital bitstream, wherein ... said plurality of media processors is capable of splitting **said portion** of said multimedia digital bitstream into a primary bitstream and a secondary bitstream," as is recited in the claims.

A claimed invention is prima facie obvious when three basic criteria are met. First, there must be some suggestion or motivation, either in the reference themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the teachings therein. Second, there must be a reasonable

expectation of success. And, third, the prior art reference or combined references must teach or suggest **all** the claim limitations.

In this case, Vince and Gonzales are totally silent with regard to processors processing a **portion** of a multimedia digital bitstream. Therefore, Vince and Gonzales fail to appreciate the present invention processing a portion of the input digital bitstream in each processor. Accordingly, one would not look to either Vince or Gonzales to develop the novel features of the present invention as neither Vince nor Gonzales disclose processing portions of the input bit stream.

Even if one were to combine the teachings of Vince and Gonzales, the combined invention would not include all the elements recited in the claims. As shown Vince fails to teach or suggest processors processing portions of the input bit stream and Gonzales does not teach such processing. Hence the combined device would not include all the elements claimed.

With regard to obviousness the courts have found “[t]he very ease with which the invention can be understood may prompt one to fall victim to the ... effect of a hindsight syndrome wherein that which only the invention taught is used against its teacher.” Iron Grip Barbell Company v. USA Sports, Inc., 04-1149 (Fed. Cir. 2004), (quoting In re Kotzab, 217 F.3d 1365, 1369 (Fed. Cir. 2000)). “Where an invention is contended to be obvious ... our cases require that there be a suggestion, motivation or teaching ... for such a combination.” *Id.* (quoting In re Fine, 837, F.2d 1071, 1074 (Fed. Cir. 1988)). “This requirement prevents the use of ‘the inventor’s disclosure as a blueprint for piecing together the prior art to defeat patentability.” *Id.* (quoting Ecolchem, Inc. v. So. Cal. Edison Co., 227 F.3d 1361, 1371-1372 (Fed. Cir. 2000), quoting In re Dembiczak, 175 F.3d 994, 999 (Fed. Cir. 1999)).

Applicant believes that in this case the examiner has impermissibly used the teachings of the instant application as a blueprint to combine the teachings of Vince and Gonzales without any suggestion or reason for such combination from either reference.

Having shown that there is no teaching or suggestion to combine the reference cited and even if the references were combined, the combined device would not include all the elements recited in the claims, applicant submits that the reason for the examiner’s

rejections of claim 1 has been overcome and can no longer be sustained. Applicant respectfully requests, withdrawal of the rejection and allowance of the claims.

With regard to claims 9 and 17, these claims recite subject matter similar to that recited in claim 1 and the examiner rejected these claims citing the same references used in rejecting claim 1. Thus, applicant's remarks made in response to the examiner's rejection of claim 1 are also applicable in response to the examiner's rejection of claims 9 and 17. Applicant submits that in view of the remarks made with regard to the rejection of claim 1, which are reasserted, as if in full, in response to the rejection of claims 9 and 17, the examiner's rejection of claim 9 and 17 have been overcome and can no longer be sustained. Applicant respectfully requests withdrawal of the rejection and allowance of the claims.

With regard to claims 2, 3, 4, 8, 10-13, 16, 18 and 20 these claims ultimately depend from independent claims 1, 9 and 17, which have been shown to be not obvious and allowable over the cited references. Accordingly, the aforementioned claims are also allowable by virtue of their dependence from an allowable base claim.

For all the foregoing reasons, it is respectfully submitted that the rejected claims are patentable in view of the cited references

Applicant, through his attorney, wishes to thank the examiner for his indication of allowable subject matter in claims 5-7, 13-15 and 19 and 20 if rewritten as set forth in the instant Office Action. However, for the remarks made herein, applicant believes that all the claims are in an allowable form and elects not to amend the claims as suggested by the examiner. Applicant, however, reserves the right to amend the claims as suggested by the examiner at a later time.